

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

FILED

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

CARL WILSON, an individual, and  
AUDREE WILSON, an individual,

JUL 30 1997

Plaintiffs,

v.

No. CIV 94-892 JC/LFG

HARPERCOLLINS PUBLISHERS, INC.,  
a Delaware Corporation,

Defendant.

**MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT HARPERCOLLINS'**  
**MOTION FOR RECONSIDERATION OF THE JULY 7, 1997 ORDER**  
**REGARDING PLAINTIFF CARL WILSON'S LIBEL CLAIMS**

On July 7, 1997, this Court granted in part HarperCollins' motion for summary judgment on plaintiff Carl Wilson's libel claims. HarperCollins submits the present motion for reconsideration of that Order on two grounds. First, as to the challenged passage from pages 311-12 of the book (see Second Amended Complaint ¶ 19) -- which concerns the retention of Landy to treat Dennis Wilson -- the Court observes on page 11 of its Memorandum Opinion (also filed on July 7) that since "HarperCollins makes no reference to this passage" in its summary judgment motion, it "will not be considered for review." Slip Op. at 11.

HarperCollins did, however, address this passage both in its opening and reply briefs, asserting that it is not actionable and should be dismissed for a number of reasons, including, inter alia, its substantial truth. See Opening Brief at 22 n.10; Reply Br. at 19-20. HarperCollins thus respectfully requests that the Court reconsider its ruling on this passage in

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light of the arguments presented.

Second, the July 7 Opinion makes no reference to two of the passages challenged by Mr. Wilson which concern his drinking of alcohol, and which allegedly support his assertion in paragraph 20 of the Complaint that the book "falsely portray[s] Carl as an abuser of alcohol." These passages are:

1. My brother Carl, on the other hand, stayed in his room and drank. (Book at 376; Complaint ¶ 19)
2. I was performing on my own, making my own decisions, even venturing out to art museums and restaurants while Carl was holed up in his room, avoiding the outside world, still drinking heavily, blind to his own problems. (Book at 378; Complaint ¶ 19.)

HarperCollins' opening and reply briefs directly address these passages and the various reasons why they are not actionable, including, inter alia, Mr. Wilson's admitted history of alcohol abuse and his inability to recall the time period in which these passages are said to have occurred. See Opening Br. at 11-12; Reply Br. at 14-15. HarperCollins thus respectfully requests that the Court rule as to these passages.

Respectfully submitted,

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We hereby certify that a copy of  
the foregoing was hand delivered  
to Ernesto J. Romero and faxed to  
Barry Langerg this 15<sup>th</sup> day of  
July, 1997.

RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.

By William S. Dixon  
William S. Dixon